IN THE HIGH COURT OF BOMBAY AT GOA.

FIRST APPEAL NO.159 OF 2000

1. Special Land Acquisition Officer
(South Goa) Konkan Railway
Corporation Limited,
Amey Guest House,
Davorlim Road,
P.O. Navelim,
Salcete Goa, 403 707.

2. Chief Engineer,
Konkan Railway Corporation Ltd.,
Rawnfond,
near Margao Railway Station,
Margao Goa. ... Appellants.

V/s

1. Shanta Purshottam Naik Gaocar,
Nagorcem,
Canacona, Goa. ... Respondent.

Mr. E. Afonso, Advocate for the appellants.

Respondent though served absent.

CORAM: A.P. LAVANDE, J.

DATE: 27TH APRIL, 2005.

ORAL JUDGMENT

The appellants challenge the judgment and award dated 21.8.1999 passed by the Additional District Judge, South Goa,

Margao in Land Acquisition No.96/95.

2. By Notification dated 12.8.1991 issued under Section 4 of the Land Acquisition Act (the Act for short) the Government acquired for Konkan Railway Corporation Ltd. large chunks of lands situated at Chaudi, Canacona. The properties bearing survey nos. 105/11, 100/5, 101/3 and 101/13 admeasuring 4073 square meters belonging to the respondent Shanta Purshottam Naik Gaocar, the original applicant before the reference Court, were part of the acquired land. The Special Land Acquisition Officer by his award dated 22.12.1993 awarded Rs.9/- per square meter in respect of survey no.105/11, 101/3 and 101/13 which were paddy fields and in respect of survey no.100/5 which was coconut garden the Special Land Acquisition Officer awarded Rs.18/- per square meter. Aggrieved by the said award, the original applicant sought reference under Section 18 of the Land Acquisition Act and claimed compensation of Rs.100/- per square meter. The reference Court relying upon the Award dated 15.3.1989 (Exhibit AW1/A) which was in respect of acquisition for the proposed approach road to Talpona Galjibag bridge awarded Rs.24/- per square meter in respect of all survey numbers after holding that all the lands belonging to the

respondent which were acquired were paddy fields. The reference Court granted increase of 10% every year on compounding basis and fixed the compensation in respect of the acquired land at the rate of Rs.24/- per square meter.

3. Mr. Afonso, learned Counsel appearing for the appellants submitted that the reference Court was not justified in relying upon award dated 15.3.1989 (Exhibit AW1/A) since the lands involved in the said award were not similar to the acquired lands. Learned Counsel further submitted that the reference Court was not justified in awarding increase of 10% every year and that too on compounding basis taking the rate fixed by the Land Acquisition Officer in award dated 15.3.1989 (Exhibit AW1/A). The learned Counsel further submitted that this Court in a number of connected appeals has granted increase of 5% every year and therefore the respondent is not entitled to the increase of 10% every year.

4. I have considered the submissions made by the learned Counsel for the appellants. Since the respondent is absent inspite of service, I have gone minutely through the records. In so far as the submission of Mr. Afonso that the reference Court

could not have relied upon the award dated 15.3.1989 (Exhibit AW1/A), I am unable to accept the submission since the acquired lands and the lands involved in the award dated 15.3.1989 (Exhibit AW1/A) are similar and are situated in close proximity. Therefore the reference Court was justified in placing reliance upon the said award dated 15.3.1989 (Exhibit AW1/A) and fixing the compensation on the basis of the said award. However, in so far as increase of 10% per year granted by the reference Court, I am in agreement with Mr. Afonso that the reference Court ought not to have awarded increase of 10% per year and that too on compounding basis. The acquired lands were paddy fields situated at Chaudi, Canacona. Moreover the respondent had not led any evidence about the development around the acquired lands preceding Section 4 Notification. In addition, I have granted increase of 5% every year in a number of connected appeals arising out of the same Notification on the ground that the acquired lands were paddy fields having certain restrictions on their use and in the absence of any evidence as to development around the acquired lands preceding Section 4 Notification, the increase of 5% and not 10% per year was justified. For the very same reasons, I hold that the reference Court ought to have granted increase of 5% and not 10% and

that too on compounding basis. Considering the increase of 10% per year the compensation payable in respect of the acquired lands works out to Rs.18.75 per square meter. I deem it appropriate to round it up to Rs.19/- per square meter. Accordingly, I fix the compensation payable in respect of the acquired lands at the rate of Rs.19/- per square meter on the date of publication of notification under Section 4 of the Act. Needless to mention that the respondent is entitled to all the statutory benefits under the Act.

5. In view of the above discussion, the appeal is partly allowed, with no order as to costs.

A.P. LAVANDE, J.

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